

# ARIZONA LAWS RELATING TO ENVIRONMENTAL QUALITY

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**WEST GROUP**

## AIR QUALITY

### ARTICLE 8. TRAVEL REDUCTION PROGRAMS

*Article 8, consisting of §§ 49-581 to 49-593, was added by Laws 1988, Ch. 252, § 23, effective January 1, 1989*

#### § 49-581. Definitions

In this article, unless the context otherwise requires:

1. "Alternate mode" means any mode of commute transportation other than the single occupancy motor vehicle.

2. "Approvable travel reduction plan" means a plan that is submitted by a major employer and that meets the requirements set forth in § 49-588.

3. "Area A" has the same meaning prescribed in § 49-541.

4. "Board" means the board of supervisors of a county with a population of more than one million two hundred thousand persons according to the most recent United States decennial census.

5. "Carpool" or "vanpool" means two or more persons traveling in an automobile, truck or van to or from work.

6. "Commute trip" means a trip taken by an employee to or from a work site located within the county.

7. "Commuter matching service" means a system, whether it uses computer or manual methods, which assists in matching employees for the purpose of sharing rides to reduce the drive alone travel.

8. "Employer" means any sole proprietor, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department district or other individual or entity, either public or private, that employs workers.

9. "Full-time employee" means an employee who works at or reports to a single work site during any twenty-four hour period for at least three days per week during at least six months of the year.

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10. "Full-time student" means a driving-aged high school, community college or university student commuting to school three or more days of the week during any regular school term.

11. "Major employer" means an employer with one hundred or more employees working at or reporting to a single work site during any twenty-four hour period for at least three days per week during at least six months of the year, except that in area A the threshold is fifty employees.

12. "Mode" means the type of conveyance used in transportation, including single occupancy motor vehicle, rideshare vehicles, transit, bicycle and walking.

13. "Motor vehicle" means any self-propelled vehicle including a car, van, bus or motorcycle and all other motorized vehicles.

14. "Political subdivision" means a city, town or county of this state.

15. "Public interest group" means any nonprofit group whose purpose is to further the welfare of the community.

16. "Reduced emission vehicle" means a motor vehicle that is certified by the task force as being substantially lower emitting in actual use than vehicles generally purchased in the area and that shall be counted as less than a single motor vehicle for travel reduction plan purposes.

17. "Reduced emission vehicle factor" means a factor that is applied to the single occupancy vehicle count and the motor vehicle miles traveled count pursuant to § 49-588 to allow a reduced emission vehicle to receive less than the full count of a regular motor vehicle or a mile traveled by a regular motor vehicle.

18. "Regional" means an area which encompasses or overlaps territory within the jurisdiction of two or more political subdivisions of this state.

19. "Regional program" means the combination of all implemented plans within area A which program shall begin in January, 1989.

20. "Ridesharing" means transportation of more than one person for commute purposes in a motor vehicle, with or without the assistance of a commuter matching service.

21. "Staff" means the county staff assigned to the task force.

22. "Task force" means the travel reduction program regional task force in area A which is

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designated by the board as the responsible agency to implement and enforce this article.

23. "Transit" means a bus or other public conveyance system.

24. "Transportation coordinator" means a person designated by an employer, property manager or transportation management association as the lead person in developing and implementing a travel reduction plan.

25. "Transportation management association" means a group of employers or associations formally organized to seek solutions for transportation problems experienced by the group.

26. "Travel reduction plan" means a written report outlining travel reduction measures.

27. "Travel reduction program" means a program that implements a travel reduction plan by an employer and is designed to achieve a predetermined level of travel reduction through various incentives and disincentives.

28. "Vehicle miles traveled" means the number of miles traveled by a motor vehicle for commute trips. A mile traveled by a reduced emission vehicle shall be counted as less than a full vehicle mile traveled for travel reduction plan purposes.

29. "Vehicle occupancy" means the number of occupants in a motor vehicle including the driver.

30. "Voluntary participant" means an employer that is not included in the definition of major employer and chooses to participate in a travel reduction program.

31. "Work site" means a building and any grouping of buildings which are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way and which are owned or operated by the same employer.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989. Amended by Laws 1990, Ch. 362, § 1; Laws 1993, Ch. 196, § 1; Laws 1993, 6th S.S., Ch. 1, § 36; Laws 1998, Ch. 217, § 31.

## **49-582. Travel reduction program regional task force; composition**

**A.** A travel reduction program regional task Force is established in area A for the purposes prescribed in this article. The regional public transportation authority established under title 48, chapter 29, and the regional planning agency for a county with a population of one million two hundred thousand or more persons according to the

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most recent United States decennial census shall provide assistance to the task force. The task force shall nominate a chairman for the task force who is then officially appointed by the board. The board shall appoint the travel reduction program director to supervise the staff and to be assistant chairman of the task force. The director is not a voting member.

**B.** The board shall appoint members of the task force in an equitable manner, including government and private sector representatives from each county in area A. Task force members shall be appointed to serve two year terms, and membership shall be staggered so that no more than two thirds of the appointed members' term expire on January 31 of any year. The board shall determine the method of selection and appointment of task force members, as provided by law, ordinance or the guidelines established in this section.

**C.** The task force members shall be appointed to represent interests affected by the travel reduction program. Candidates for membership must be residents of area A and shall be selected from major employers, a member or manager of a transportation management association, an owner or manager of any business park, industrial park, office building, shopping center or other concentration of commercial interests, a public interest group established to address transportation or air quality issues or political subdivisions within area A.

**D.** Counties in area A with a population of one million two hundred thousand persons or less according to the most recent United States decennial census may enter into an intergovernmental agreement with a county in area A with a population of more than one million two hundred thousand persons according to the most recent United States decennial census to implement and comply with the requirements of this article.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1990, Ch. 362, § 2; Laws 1997, Ch. 1, § 501, eff. Oct. 1, 1997; Laws 1998, Ch. 217, § 32.

Section 48-5 101 et seq.

## **§ 49-583. Duties and powers of the task force**

**A.** The task force shall review and approve the baseline survey distributed to major employers for the purpose of collecting data on employee commuting patterns. The task force shall provide uniform formats for data to be provided by each employer on the commuting patterns of its employ-

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ees and the effectiveness of its travel reduction plan. Collected data shall include the mode used and distance traveled for commute trips. The task force shall establish uniform requirements for record keeping and reporting as necessary to comply with this article and reasonable deadlines for submittal of additional data as required.

### **B.** The task force shall:

1. Evaluate major employers' travel reduction plans and approve or object to any such plan received.

2. Review all responses by major employers to the annual survey and determine if they meet the requirements of this article.

3. Review the travel reduction plan submitted by each major employer to conclude if the plan achieves the targeted increase in travel reduction measures along with the staff report on the plan.

4. Monitor the implementation of each travel reduction plan as submitted by each major employer.

5. Develop and implement policies, standards and criteria for certifying eligible motor vehicles as being reduced emission vehicles if they are substantially lower emitting in actual use than vehicles generally purchased in the area. The task force shall not certify any reduced emission vehicle or group of vehicles unless the task force has evidence of all of the following:

(a) Results of a federal test procedure conducted pursuant to 40 code of federal regulations part 86, subpart B, effective July 1, 1992, or an equivalent method approved by the administrator of the United States environmental protection agency, demonstrating substantially lower emissions from the vehicle or group of vehicles.

(b) In the case of any device added to the vehicle to reduce emissions, that the device has printed on it, or on the packaging, a clear statement by the manufacturer as to whether use of the device will void any existing vehicle warranty, and what the manufacturer's responsibility will be under such circumstances. The state shall have no responsibility as to the validity of such statement.

(c) United States environmental protection agency approval of the use of a reduced emission factor for that vehicle or group of vehicles as a revision to the state implementation plan.

6. Develop and implement policies, standards and criteria for reduced emission vehicle factors to be applied to the single occupancy vehicle count

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and the motor vehicle miles traveled count pursuant to § 49-588. The reduced emission vehicle factor applied to a reduced emission vehicle shall be proportional to its average emission reduction in actual use as compared to vehicles generally purchased in the area.

**C.** A plan submitted to the task force under subsection B, paragraph I of this section shall be approved or objections shall be filed within ninety days of its submission. The plan is automatically approved unless objected to by the task force within ninety days. Objections shall be based on criteria set forth in § 49-588. If the task force objects to the plan, it shall be reviewed and revised in consultation with the employer. The task force shall determine if enforcement action is appropriate and shall recommend action as it deems necessary.

**D.** If any response submitted to the task force pursuant to subsection B, paragraph 2 of this section is not approved, the task force may direct the employer to submit additional data within thirty days. If subsequent submissions of data are not approved, the task force shall evaluate the major employer and supporting data and decide if enforcement action is appropriate.

**E.** If a travel reduction plan submitted to the task force pursuant to subsection B, paragraph 3 of this section is not approved, the task force shall describe the inadequacies and direct the major employer to modify the plan within thirty days. If the plan as modified is not approved, the task force shall evaluate the supporting data and decide if enforcement action is necessary.

**F.** If a major employer has not implemented the travel reduction plan as submitted to the task force pursuant to subsection B, paragraph 4 of this section, the task force shall describe the inadequacies and shall direct modifications in the plan implementation. If the major employer's efforts remain inadequate, the task force shall evaluate the supporting data and decide if enforcement action is necessary.

**G.** If a major employer's travel reduction plan fails to achieve the target goals, the task force shall direct the staff to work with the employer to increase alternative modes of usage and reduce vehicle miles traveled in keeping with regional goals and to submit a plan addendum outlining activities aimed at correcting the plan deficiencies, unless the major employer's current efforts are judged to be sufficient based on:

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1. The cost of the employer's travel reduction program compared to the average cost of such programs for all major employers.

2. Unusual circumstances faced by the major employer. If unusual circumstances do exist, the task force shall determine if major employers that fail to submit an addendum within ninety days after the date of written notice should be subject to enforcement action.

**H.** The task force shall direct the staff to identify and contact potential voluntary participants to encourage and assist them in participating in cooperative efforts to collect data on commuting patterns, needs and desires of their employees and their tenants' employees. These potential voluntary participants shall include property managers and other nonmajor employers that may wish to participate in a travel reduction program. The task force shall encourage these owners, managers and employers to form transportation management associations. Among other activities the transportation management associations may disseminate information on alternate modes of transportation. The task force shall encourage the transportation management associations to assist member employers in developing and implementing travel reduction plans.

**1.** The task force shall review the performance of the regional program annually and prepare a report for the board. The report shall include successes and problem areas and shall recommend revisions to this article, as necessary.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1990, Ch. 362, § 3; Laws 1993, Ch. 196, § 2.

## § 49-584. Staff duties

The staff shall provide support to the task force and the major employers. The staff shall:

1. Provide assistance to each employer in coordinating data collection, dissemination of information on air quality, alternative modes programs, developing a travel reduction plan and increasing the effectiveness of selected travel reduction measures.

2. Coordinate training programs for major employers to assist them in training their transportation coordinator, preparing and implementing their travel reduction plans and preparing annual reports.

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3. Coordinate survey and data collection activities and overall program monitoring with the task force and the board.

4. Under direction of the task force, develop an implementation schedule for annual surveys of the major employer community.

5. Assist the task force in developing and implementing policies, standards and criteria for certifying eligible motor vehicles as being reduced emission vehicles.

6. Assist the task force in developing and implementing policies, standards and criteria for reduced emission vehicle factors to be applied to the single occupancy vehicle count and the motor vehicle miles traveled count pursuant to § 49-588.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1989, Ch. 113, § 1; Laws 1993, Ch. 196, § 3.

**§ 49-585. Repealed by Laws 1990, Ch. 362, § 4**

**§ 49-586. Repealed by Laws 1989, Ch. 113, § 2**

## § 49-587. Voluntary participation

Nonmajor employers or groups of nonmajor employers are encouraged to participate in data collection and information dissemination efforts and in the preparation of their own travel reduction plans on a voluntary basis. The task force shall assist these groups, and these groups are eligible for participation in all programs and services. Groups of nonmajor employers are encouraged to form transportation management associations.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

## § 49-588. Requirements for major employers

A. In each year of the regional program each major employer shall:

1. Provide each regular employee with information on alternate mode options and travel reduction measures. This information shall also be provided to new employees at the time of hiring.

2. Participate in a survey and reporting effort as directed by the task force and as scheduled by the staff. The results of this survey shall form a baseline against which attainment of the targets in subsection D of this section shall be measured as follows:

(a) The baseline for participation in alternative modes of transportation shall be based on the proportion of employees commuting by single occupancy vehicles.

(b) The baseline for vehicle miles traveled shall be the average vehicle miles traveled from place of residence to work per employee for employees not residing on the work site.

3. Prepare and submit a travel reduction plan for submittal to the staff and presentation to the task force. The staff shall assist in preparing the plan. Major employers shall submit plans within nine weeks after they receive survey data results. The plan shall contain the following elements:

(a) The name of the designated transportation coordinator.

(b) A description of employee information programs and other travel reduction measures which have been completed in the previous year.

(c) A description of additional travel reduction measures to be undertaken by the major employer in the coming year. The following measures may be included:

(i) A commuter matching service to facilitate employee ridesharing for work trips.

(ii) Provision of vans for vanpooling.

(iii) Subsidized carpooling or vanpooling which may include payment for fuel, insurance or parking.

(iv) Use of company vehicles for carpooling.

(v) Provision for preferential parking for carpool or vanpool users which may include close-in parking or covered parking facilities.

(vi) Cooperation with other transportation providers to provide additional regular or express service buses to the work site.

(vii) Subsidized bus fares.

(viii) Construction of special loading and unloading facilities for transit and carpool and vanpool users.

(ix) Cooperation with political subdivisions to construct walkways or bicycle routes to the work site.

(x) Provision of bicycle racks, lockers and showers for employees who walk or bicycle to and from work.

(xi) Provision of a special information center where information on alternate modes and other travel reduction measures is available.

(xii) Establishment of a full-time or part-time work at home program for employees.

(xiii) Establishment of a program of adjusted work hours which may include telecommuting, compressed workweeks or staggered work hours. Work hour adjustments should not interfere with or discourage the use of ridesharing and transit.

(xiv) Establishment of a program of parking incentives such as a rebate for employees who do not use the parking facility.

(xv) Incentives to encourage employees to live closer to work.

(xvi) Implementation of other measures designed to reduce commute trips such as the provision of day care facilities or emergency taxi services.

(xvii) Incentives for use of reduced emission vehicles and alternative fuel vehicle refueling facilities.

**B.** All employers in area A with one hundred or more employees at a single work site shall notify their employees of the employees' duty to comply with the requirements of § 49-542. The travel reduction program regional task force shall prepare and make available a standard information form for use by all employees of those employers.

**C.** Except as provided in subsection F of this section, an approvable travel reduction plan shall meet all of the following criteria:

1. The plan shall designate a transportation coordinator.

2. The plan shall describe a mechanism for regular distribution of alternate mode transportation information to employees.

3. For employers that in any year meet or exceed annual regional targets for travel reduction, the plan shall accurately and completely describe current and planned travel reduction measures.

4. For employers that, in any year, fall below the regional targets for travel reduction, the plan shall include commitments to implement:

(a) At least two specific travel reduction measures in the first year of the regional program.

(b) At least three specific travel reduction measures in the second year of the regional program.

**D.** After the second year, the task force shall review the travel reduction programs for employers not meeting regional targets and may recommend additional measures.

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**E.** Employers shall implement all travel reduction measures they consider necessary to attain the following reduction in the proportion of employees commuting by single occupancy vehicles or commuter trip vehicle miles travel reductions per regulated work site:

1. Five per cent reduction in the proportion of employees commuting by single occupancy vehicles as determined in the annual survey in the first year, except that in area A the reduction shall be ten per cent.

2. In the second, third, fourth and fifth years, an additional five per cent reduction in the proportion of employees commuting by single occupancy vehicles as determined in the annual survey, except that in area A the reduction shall be ten per cent. If the percentage of employees commuting in single occupancy vehicles is sixty per cent or less, additional reductions are not required.

**F.** Notwithstanding any other requirements, a major employer may be in compliance with the requirements of subsections A, C and E of this section by submitting a plan that demonstrates achievement of emissions reductions equivalent to those that would have been obtained through compliance with the requirements of subsection E of this section. Emissions reductions achieved for the purpose of compliance with this subsection shall be in addition to any other emissions reductions that are otherwise required by law, rule, ordinance or permit. The plan may contain any of the following measures to achieve emissions reductions:

1. Voluntary polluting vehicle trade-outs only if both of the following conditions are met:

- (a) Vehicles are not crushed.
- (b) The program applies only to vehicles owned by the major employer or its employees.

2. Use of clean on-road vehicles.

3. Use of clean off-road mobile equipment.

4. Remote sensing.

5. Other mobile source emissions reductions.

6. Emissions reductions from stationary sources.

7. Peak commute trip reductions.

8. Other work-related trip reductions.

9. Vehicle miles traveled reduction programs.

10. Fuel additives which have been shown to reduce hydrocarbon, carbon monoxide or particulate matter emissions of significant polluting on-

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road vehicles, off-road mobile sources or area sources by twenty per cent or more.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1989, Ch. 113, § 3; Laws 1990, Ch. 362, § 5; Laws 1993, Ch. 196, § 4; Laws 1993, 6th S.S., Ch. 1, § 37; Laws 1994, Ch. 353, § 28, eff. April 26, 1994; Laws 1995, Ch. 97, § 4; Laws 1996, 7th S.S., Ch. 6, § 39; Laws 1998, Ch. 217, § 33; Laws 1998, Ch. 221, § 18.

## § 49-589. Variances

**A.** The task force shall appoint from its members a committee to serve as a hearing board for major employers requesting variances from all or part of the travel reduction plan schedule.

**B.** Any major employer wishing a variance from any of the requirements of this article shall make written application to the task force which shall make a determination on the variance. A request for variances shall be finally approved or disapproved within ninety days after the filing of a request by an employer.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1990, Ch. 362, § 6.

## § 49-590. Requirements for high schools, community colleges and universities

A major employer that is a high school, community college or university, in developing its survey, travel reduction plan or travel reduction program, shall include full-time students in determining the requirements of this article.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

## § 49-591. Exemptions

**A.** Employers opening for business, or hiring, relocating or otherwise adding employees so as to become subject to the requirements of this section within sixty days before the annual due date for the annual survey, are not required to submit the survey or plan until the next annual due dates.

**B.** The task force may grant an exemption to employers from the requirement to attain trip reduction goals specified in § 49-588. Exemptions shall be granted if the employer demonstrates that effective trip reduction strategies were implemented on or after July 1, 1988. Those exemptions may be granted only for the first year in which an employer is subject to this section. Employers shall demonstrate that effective strategies are in place by providing:

1. A detailed description of the trip reduction strategies and how they are implemented.

2. The period of time that the strategies have been in place.

3. Evidence indicating that the strategies have been effective in reducing the proportion of employees commuting by single occupancy vehicles.

**C.** The task force shall grant an exemption only on finding:

1. The evidence submitted by the employer is valid.

2. The trip reduction strategies have reduced trips at least as much as specified in the trip reduction goals pursuant to § 49-588.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1990, Ch. 362, § 7.

### **§ 49-592. Appeals**

**A.** Any major employer or resident of the political subdivision may appeal a decision of the task force to authorize or withhold variances or a decision of the task force regarding enforcement or other provisions of this article.

**B.** The board shall hear and decide the appeal. If the decision is to disapprove the plan, the plan shall be returned to the task force for review and revision.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1990, Ch. 362, § 8.

### **§ 49-593. Violations; civil penalties**

**A.** On determining a violation of this article the board shall request the county attorney to take appropriate legal action.

**B.** Violations of any of the following requirements may subject a major employer to increased civil penalties:

1. Failure to collect or supply information requested by the task force.

2. Failure to disseminate information on alternate modes and other travel reduction measures as specified in this article.

3. Failure to designate a transportation coordinator.

4. Failure to submit an approvable travel reduction plan.

5. Failure to implement an approved plan with in the time schedule provided or failure to perform a revision of a plan as required by the task force.

**C.** Failure by a major employer to meet travel reduction goals as prescribed in § 49-588 does not constitute a violation if the major employer is at tempting in good faith to meet the goals.

**D.** Except as provided in subsection C of this section, any employer that violates the requirements of this article is subject to a civil penalty of not to exceed one hundred dollars for a first violation, two hundred dollars for a second violation within one year and three hundred dollars for each additional violation within one year. Violations of this article which continue for more than one day constitute separate violations on each day. All civil penalties collected shall be deposited in the county general fund.

Added by Laws 1988, Ch. 252, § 23, eff. Jan. 1, 1989.

Amended by Laws 1990, Ch. 362, § 9.